

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

vs.

Case No.: 00-CR-0111-02 (PG)

ORLANDO FONTANEZ-OTERO

* * * * *

**MOTION NOTIFYING VIOLATION OF SUPERVISION
AND REQUEST FOR THE ISSUANCE OF A WARRANT**

TO THE HONORABLE JUAN M. PEREZ-GIMENEZ
U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO

COMES NOW, MIRIAM FIGUEROA, U.S. PROBATION OFFICER of this Court, presenting an official report upon the conduct and attitude of releasee, Orlando Fontanez-Otero, who on June 1, 2000, was sentenced to a term of imprisonment of six (6) months after being found guilty to violating Title 18 U.S.C. §§ 641 and 2. A supervised release term of three (3) years was imposed with the special conditions of urinalyses and participation in a substance abuse treatment program, if needed.

On October 19, 2000, the offender was released from custody at which time the supervision term imposed was supposed to commence. However, Mr. Fontanez failed to report to the U.S. Probation Office. A motion was filed notifying his violation and on June 9, 2004, Mr. Fontanez was arrested, at which time a detention hearing was held. On that same date, Hon. Gustavo A. Gelpí, U.S. Magistrate Judge, ordered the offender's release and ordered him to report to supervision immediately. However, subsequently, offender only reported on June 14, 2004, when he was last seen. On November 12, 2004,

offender's supervision was revoked and was sentenced to an imprisonment term of six months followed by a supervised release term of two years.

On February 18, 2005, offender was released on supervision for the second time with a special condition that he participate in a residential substance abuse program for a period of one year. On February 22, 2005, offender reported to the U.S. Probation Office for an intake interview but failed to provide a urine sample and to meet with this officer as instructed. He left the office and has not been seen since. On March 11, 2005, a message was left with offender's mother for offender to report to the U.S. Probation Office on March 15, 2005, but he failed to do so.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

The offender has violated the following conditions:

1. STANDARD CONDITION NO. 2 - "THE DEFENDANT SHALL REPORT TO THE PROBATION OFFICER AND SHALL SUBMIT A TRUTHFUL AND COMPLETE WRITTEN REPORT WITHIN THE FIRST FIVE DAYS OF WASH MONTH."

2. SPECIAL CONDITION: "THE DEFENDANT SHALL PARTICIPATE IN A RESIDENTIAL SUBSTANCE TREATMENT PROGRAM FOR A PERIOD OF ONE YEAR, AS ARRANGED BY THE U.S. PROBATION OFFICER, AND SHALL SUBMIT TO LABORATORY TESTING FOR SUBSTANCE ABUSE DETECTION AS REQUIRED".

The offender reported on February 22 , 2005 to the U.S. Probation Office, but left the office without submitting a urine sample or meeting with this officer as instructed. He has also failed to submit his Monthly Supervision Reports. A referral to a residential drug treatment program has been unfeasible due to offender's non-compliance.

WHEREFORE, I declare under penalty of perjury that the foregoing is true and correct. In lieu of the aforementioned, and given the offender's serious substance abuse addiction, it is respectfully requested that a warrant of arrest be issued so that Mr. Fontáñez-Otero may be brought before this Honorable Court to show cause why his supervised release term should not be revoked. Thereupon, he to be dealt with pursuant to law.

In San Juan, Puerto Rico, this 18th day of April 2005.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

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CERTIFICATE OF SERVICE

I HEREBY certify that on April 18, 2005, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Francisco A. Ojeda-Diez, Assistant U.S. Attorney, and to Victor González-Bothwell, Assistant Federal Public Defender.

At San Juan, Puerto Rico, April 18, 2005.

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